

## **Remarks / Arguments**

Claims 1-28 are pending in this application. Claims 1, 2, 5, 7, 11-13, 17-20, 22, 23, 24 (in part), and 25-28 have been withdrawn. Claims 3, 4, 6, 8-10, 14-16, 20, 21-23, and 24 have been amended. No new matter has been added.

### **Election/Restriction**

Applicants affirm the election of restriction group IX (claims 3-19, 21, the species of example 16, and a method for treating hypertension) for further prosecution in this application.

Applicants request that the examiner consider including process claim 20 in restriction group IX, as this claim deals with the process by which the compounds of claim 3 may be made.

Applicants request that the examiner consider including claim 24 in restriction group IX, as claim 24 relates to the method of using the compounds of claim 3, and the examiner had required an election of one condition to be treated, in response to which hypertension was elected. Claim 24 has not been dealt with in the official action.

Applicants request that the examiner consider including claim 27 in restriction group I, as claim 27 is a dependent claim under claim 1.

Applicants request that the examiner consider including claim 28 in restriction group II, as claim 28 is a dependent claim under claim 2.

### **Rejection under §112, second paragraph**

Claim 6 was rejected under §112, second paragraph, on the ground that the language “angeordnet ist” in the definition of the group W rendered the claim indefinite. This wording was a residue from the translation from the original German, and has now been removed.

Claims 1 and 2 have been amended to correct “hem” to “heme”.

Claims 3, 4, 6, 8, 9, 10, 14, 15, 16, and 20 have been amended to place them into a form more usual in US prosecution. The amendments to process claim 20 now clarify that the claimed process is for making the compounds of claim 3 (and also the remaining compound claims).

Claim 21 has been amended to remove reference to withdrawn claims.

Claim 24 has been amended to remove non-elected subject matter.

#### Rejection under §103

Claims 3-4, 6, 8-10, 14-16, and 21 were rejected under §103 in view of Rosentreter '638, on grounds that a) the reference discloses compounds similar to those presently claimed, and b) the generic disclosure of the reference corresponds to the presently claimed compounds. He refers to the compounds of examples 113 and 114 of the reference. The examiner states that the "instant compounds differ from Rosentreter et al. in that they are close structural analogs of compounds of formula (I)..." He concludes that "one of ordinary skill in the art would be motivated to prepare compounds so closely related to be homologous, isomeric, or structural analogs of compounds of the reference so as to be structurally obvious therefrom, or would be rendered obvious by the teachings of the reference in the absence of any unobvious properties especially since one of ordinary skill would expect compounds so closely related structurally to have similar properties."

The examiner appears to be making two related rejections: a) the present claims are obvious in view of the generic disclosure of the reference, and b) the present claims are obvious in view of examples 113 and 114 of the reference.

With respect to the rejection based on the generic disclosure of the reference, the applicants point out that the scope of the generic disclosure of the reference is broader in certain respects than the generic claim language employed in the present application. The examiner has not analyzed in detail the differences between the present claims and the disclosure of the reference, thus failing to make a proper prima facie rejection for structural obviousness.

Applicants would summarize the differences between the generic disclosure of the reference and present claim 3 as follows:

<u>Rosentreter '638</u>	<u>Present claim 3</u>
R <sup>2</sup> may be nitro	R <sup>1</sup> definition does not include nitro
There may be only one group R <sup>2</sup>	There may be one or two groups R <sup>1</sup>
R <sup>3</sup> may be nitro	R <sup>2</sup> definition does not include nitro
There may be an alkylene chain of up to 7 carbons between the ring bearing the R <sup>3</sup> group and the group W	The definition of the group W includes the possibility of only CH <sub>2</sub> between the ring bearing R <sup>2</sup> and the remaining -HC=CH- or -CH <sub>2</sub> CH <sub>2</sub> - of the group W

W may be -HC=CH- or -CH <sub>2</sub> CH <sub>2</sub> - and the location of the chain containing W on the ring bearing R <sup>3</sup> is not specified	Group W may be -HC=CH- or -CH <sub>2</sub> CH <sub>2</sub> - only if W is ortho to the side chain containing V and T on the ring bearing R <sup>2</sup> , and there is a proviso excluding certain compounds in which W would be -CH=CH-. Also, W may be -CH <sub>2</sub> CH <sub>2</sub> CH <sub>2</sub> - -CH <sub>2</sub> CH=CH- only if W is meta to the side chain containing V and T on the ring bearing R <sup>2</sup> and there are provisos excluding certain compounds in which W is -CH <sub>2</sub> CH=CH-
R <sup>8</sup> may be nitro	R <sup>3</sup> definition does not include nitro
There may be only one group R <sup>8</sup>	There may be up to two groups R <sup>3</sup>
The alkyl and alkoxy groups in the definitions of groups R <sup>2</sup> , R <sup>3</sup> and R <sup>8</sup> are not limited as to the number of carbons	The alkyl and alkoxy groups in the definitions of groups R <sup>1</sup> , R <sup>2</sup> , and R <sup>3</sup> are limited as to the numbers of carbons
The alkylene chains in the definitions of X and Y are not limited as to the number of carbons	The alkylene chains in the definitions of X and Y are limited as to the number of carbons

In the present application, the remaining claims dealing with compounds are more limited than claim 3, which would cause these claims to show more differences relative to the generic disclosure of the reference. Because the examiner has not identified the differences between the disclosure of the reference and the present claims, or dealt with these differences in his analysis of obviousness, the prima facie determination of obviousness is deemed to be improperly supported.

With respect to the rejection based on examples 113 and 114 of the reference, the examiner has not identified any exemplary compounds claimed in the present application for purposes of comparisons. By themselves, exemplary compounds 113 and 114 of the reference cannot make the presently claimed generic class of compounds obvious, and without some particular compound within the present application being identified for purposes of comparison, the applicants cannot respond further to this aspect of the rejection.

Respectfully submitted,

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